



PENSION REFORM IN EUROPE:

Make way for the 4th Pillar?



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5G, UN EFFET REBOND IMPOSSIBLE À APPRÉHENDER!

Article de François Meylan, Meylan Finance, Membre du GSCGI

La crise pandémique qui s'éternise nous éloigne non seulement d'une vie dite «normale» mais également de débats de société cruciaux. Celui de la 5G en est un. C'est la cinquième génération des standards pour téléphonie mobile. Elle a comme finalité l'augmentation et la rapidité de transmissions des données. Si dans certaines régions du monde la 5G est déjà bien implantée (Chine, Inde), en Suisse, entre moratoires imposés par les villes ou les cantons et les lourdeurs administratives, la situation évolue officiellement lentement. Sur le terrain, la réalité est autre.

L'opérateur téléphonique historique Swisscom fait des pieds et des mains pour ne pas perdre de temps, mais la seule vraie résistance vient des associations de consommateurs, voire des voisins. Pour le parlementaire Peter Stuckmann, en charge du dossier à la Commission européenne, la 5G est un élément essentiel à la reprise économique post-Covid19 en Europe. Alors que pour Caroline Zorn, déléguée à la ville numérique, à Strasbourg, on ne devrait pas parler de progrès mais d'évolution technologique, qui doit être encadrée tant par le politique que par la population. Encore faudra-t-il consulter cette dernière. Toujours selon Caroline Zorn, la 5G ne devrait pas pouvoir s'appuyer sur les nombreuses carences du territoire en matière de haut débit et de couverture. Interrogée dernièrement, la spécialiste évoque la nécessité d'une profonde réflexion sur quelle société souhaitons-nous: celle où le réfrigérateur communiquera directement avec le service de ventes à domicile ou celle où la voiture n'aura plus besoin de son utilisateur? Quant au plan écologique, elle rappelle que le *data-center* d'Amazon fonctionne encore au charbon dans les montagnes des Appalaches.

Les plus fortes oppositions s'inscrivent dans le domaine des risques pour la santé. Depuis 2011, les champs de fréquences électromagnétiques sont classés dans la catégorie des phénomènes pouvant être cancérogènes (OMS). C'est dans ce sens que va le «5G Appeal», un memorandum signé par près de 200 scientifiques prédisant une exposition massive des ondes imposée et nuisible à la santé. Cependant, tant du côté des pro-5G que des anti-5G, le *'cherry picking'*

est omniprésent, soit de ne considérer que des études scientifiques et autres sources qui s'avèrent en adéquation avec notre prise de position.

Il nous reste alors l'argument climat. Les pro-5G anticipent une baisse drastique de l'empreinte carbone. En octobre 2020, l'Université de Zürich et l'Empa ont publié un rapport intitulé «*Next generation mobile networks: Problem or opportunity for climate protection?*». Cette étude, financée par Swisscom, se montre plutôt positive en terme d'émissions de gaz à effet de serre (GES), à l'horizon 2030, de par le biais de la construction et de l'exploitation du réseau 5G en Suisse. À volume égal de données transmises, la 5G semble plus performante sur le plan énergétique que ses prédécesseurs. Ce qui est nuancé par la climatologue de renom Corinne Le Quéré: «*À l'heure actuelle, nous ne disposons pas d'évaluations adéquates qui permettraient d'affirmer que la 5G peut jouer un rôle bénéfique pour le climat. Le déploiement de la cinquième génération doit être compatible avec les engagements nationaux en termes de neutralité carbone. Et il est démontré que la 5G est capable d'augmenter, en France comme à l'étranger, les émissions importées à travers la fabrication des équipements.*»

Le 19 décembre 2020, le Haut conseil pour le climat français a remis, après en avoir été saisi par le Sénat, un rapport de prospective consacrée à l'impact carbone de la 5G, qui s'est révélé moins tendre avec la nouvelle génération de téléphonie mobile. Il appréhende, en cas d'utilisation de la 5G, une empreinte carbone équivalente en 2030, voire supérieure. Pourquoi cette différence de posture? La principale différence vient du fait que l'étude financée par l'opérateur helvétique ne considère que la question du point de vue de l'opérateur et de son périmètre d'équipements permettant la construction de son réseau, alors que l'investigation française tient compte des terminaux mobiles, dont la fabrication serait responsable d'environ 64% de l'impact carbone total calculé pour la 5G. Madame Le Quéré rappelle que les usages finaux des nouvelles technologies ne sont jamais entièrement anticipés, alors que les possibilités techniques finissent toujours par être utilisées à leur maximum. L'effet rebond annulerait ainsi toute espérance de gain pour le climat.

Pension reform in Europe: make way for the 4th Pillar?

...article by Simon Colboc, FEPI Secretary General, as published in March 2021 by www.fecif.org

A wide-ranging study on retirement across Europe conducted in 2020 by the FECIF European Pensions Institute (FEPI) shows that current pension reforms, however ambitious, are far from enough to address the scale of the issue.

Fortunately, European households have accumulated considerable reserves in savings and investments not identified by retirement finance statistics. This 'invisible' wealth of assets represents the hidden '4th pillar' of retirement systems.

However, these investments need to be managed in a completely different way to address the retirement gap – this requires considerable advances in advice and technology.

We generally see pensions and retirement systems as resting on three pillars

The first one is mandatory, a state-run pay-as-you-go system in which contributions from the productive sectors of the economy are redistributed to pensioners. This represents today the bulk of pensions in many European countries, contributing over 70% of pensioners' income in countries like Germany, France, Italy and Spain.

The second pillar is made up of employer-managed funded pension schemes, whether 'Defined Benefits' (guaranteeing a lifetime income in relation to salary and years of service) or 'Defined Contributions' (accumulating a pension pot made available to the participant at retirement). These represent a very significant proportion of pensioners' income in countries like the Netherlands, Denmark and the UK.

The third pillar consists of individual retirement savings made by households to supplement 1st and 2nd pillar provisions. This pillar is the focus of the European Union's effort to boost retirement savings

via the creation of the Pan European Personal Pension (PEPP) products, and also local initiatives like the French PER.

This pension structure can no longer be reformed

Maintaining the long-term balance of contributions while avoiding civic unrest on pensions is not easy for governments. Most countries across Europe have been tinkering with Pension reforms for over 30 years now, and it seems they have stretched current efforts about as far as they can go. Demographic changes and worsening dependency ratios (number of pensioners vs. active population) are putting untenable pressure on the pension systems.

So-called 'parametric' reforms, adjusting the parameters without changing the overall structure of retirement systems have reached their limits, as people are not ready to work longer even though we live far older than our grandparents, pension contributions are increasing labour costs and the purchasing power of pensions is worsening.

Recent reforms (from NEST in the UK to the launch of PEPPs) have integrated the learnings of the past and the advances of behavioural finance to develop better and targeted solutions, yet even in the most optimistic projections, the assets accumulated by such products will only address a limited part of the pension gap.

The solution might well lie outside the box, but it still needs considerable work

In reality, there is a lot of room to manoeuvre – provided we accept the need to look outside the box. Current pension systems (both first, second and third pillar) might have reached their limits, but there is an alternative.

Pension reform in Europe: make way for the 4th Pillar?

...article by Simon Colboc, FEPI Secretary General, as published in March 2021 by www.fecif.org

European households are sitting on a massive amount of savings, over €30tn in financial savings. These assets are not usually considered when analysing the pension gap, because they sit in life insurance, savings accounts or other forms of financial investments not usually associated with pensions.

However, providing for retirement is one of the key reasons why households have built such savings. If we consider that about a third of these assets are earmarked towards retirement, the assets represent some €10tn aimed at providing long-term financial security to European households.

The good news is that these €10tn do go a long way towards bridging the pension funding gap. The not-so-good news is that this money is not invested in a way that would support the investors' goals. Most of it is parked in products providing liquidity and capital guarantees in the short term, at the expense of long-term returns. Therefore, it is very likely to provide disappointing returns over the long period of time during which it will be invested. The result is simple: households are losing massively in terms of long-term purchasing power, so they are not meeting their goals.

Getting on the right path

A significant shift in saving and investing behaviour needs to take place across Europe if we are to see the 4th pension pillar contribute meaningfully to the long-term financial security of households.

Beyond changes in legislation (e.g. no longer 'forcing' investments towards guaranteed products with poor long-term prospects) and product design, three changes need to take place:

1. Enabling consumers to go through a proper financial planning exercise, to define clearly their goals, priorities and time horizon.
2. Enabling savers to set up a risk-based investment approach to reach these goals.
3. Ensuring consumers can access IT-augmented advice to prepare and implement their financial planning.

These changes were supposed to be helped by MiFID II, IDD and other European regulations, but we have to admit there is still a lot of work to do.

This article is largely inspired by the research conducted on retirement savings in Europe by FECIF and CMI strategies for FEPI in 2020. A full Executive Summary can be found [here](#).

FECIF European Pensions Institute

Retirement Planning in Europe

Executive Summary





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ACTIVITÉS DU CABINET SPÉCIALISÉ EN INVESTISSEMENTS INSTITUTIONNELS

LUSENTI PARTNERS: ENGAGEMENT DE MONSIEUR LUIS VEIGA & NOUVELLES RESPONSABILITÉS DE MONSIEUR ILIR ROKO

COMMUNIQUE—Nyon, 1e juin 2021

Dans le cadre de l'extension et du développement de ses activités, Lusenti Partners communique un renforcement de ses équipes.

Ainsi, Monsieur **Luis Veiga** rejoint la société en qualité de conseiller en investissements, en charge des activités commerciales et du suivi de clients. Au bénéfice d'une formation en économétrie (méthodes quantitatives appliquées à la finance) et en économie, Luis est actif depuis plus de 2 décennies dans les domaines des placements institutionnels. Il a occupé des fonctions techniques et de relations avec la clientèle dans des entreprises bancaires, financières et industrielles de renom, tels que UBS, Capital International, Citigroup, Hewlett Packard et Pittet Associés. Par ailleurs, Luis est également chargé d'enseignement à la Haute Ecole de Gestion de Genève.

En outre, Monsieur **Ilir Roko**, actif depuis plus de 10 ans dans l'entreprise, en devient associé. Responsable à titre principal d'un portefeuille de clients institutionnels, Ilir est un spécialiste reconnu des applications quantitatives liées à la finance: détermination des allocations stratégiques et de leur mise en œuvre, analyses des performances, des risques des coûts. Il est titulaire d'un doctorat en économétrie et a enseigné de nombreuses années en qualité de chargé de cours à l'Université de Genève.

Lusenti Partners est un cabinet de conseils spécialisé en investissements pour institutionnels, surtout les caisses de pensions, actif depuis près de 20 ans en Suisse – essentiellement en Suisse romande – ainsi qu'en Europe. L'entreprise accompagne les conseils de fondation en matière de placements, avec pour objectif d'améliorer durablement leurs résultats: optimisation des performances (ajustées aux risques), réductions de coûts, améliorations de la transparence et de la gouvernance. Indépendante de tout groupe financier, focalisée sur le conseil en investissements, appliquant une rémunération transparente sur la base d'honoraires, la société évite les conflits d'intérêts.

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FECIF—NewsFlash—101/2021—ESMA: Consultation on remuneration requirements under MiFID II

Executive Summary—The European Securities and Markets Authority (ESMA) launched a consultation on draft ESMA guidelines on certain aspects of the MiFID II remuneration requirements. The deadline is 19 October 2021.

Analysis—The remuneration of staff involved in the provision of investment and ancillary services and activities, or in selling or advising on structured deposits to clients is a crucial investor protection issue. Therefore, ESMA has developed draft guidelines that aim to clarify and foster convergence in the implementation of certain aspects of the new MiFID II remuneration requirements, replacing the existing ESMA guidelines on the same topic, issued in 2013.

This Consultation Paper builds on the text of the 2013 guidelines, which have been substantially confirmed, while those parts now incorporated into the MiFID II framework have been removed. In addition:

- it takes into account new requirements under MiFID II;
- it provides additional details on some aspects that were already covered under ESMA's 2013 guidelines; and
- it incorporates the results of supervisory activities conducted by national competent authorities on the topic.

Next steps—ESMA will consider the responses it receives to this consultation paper by 19 October 2021 and expects to publish a final report, and final guidelines, by end of Q1 2022.

Sources—Please find more information [here](#).

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FECIF—NewsFlash—98/2021—EIOPA: Consultation on the development of pension tracking services and pension dashboards

Executive Summary—The European Insurance and Occupational Pensions Authority (EIOPA) launched two consultations on the development of pension tracking services and pension dashboards. EIOPA invites stakeholders to provide feedback to both consultations by 08 September.

Analysis—The two consultations are a response to the [European Commission's request for technical advice](#) and are part of the implementation of the [Capital Markets Union action plan](#). The proposals are an important step in helping citizens in their retirement planning and supporting the Member States in identifying emerging gaps in their pension systems.

1. Consultation paper on technical advice on pension tracking services

In this consultation paper EIOPA presents the development of best practices for the setting up a national pension tracking tool, an online application that will provide citizens with an overview of their future retirement income, based on their entitlements from all pension schemes in which they participate.

In particular, EIOPA provides recommendations on:

- The role and scope of the pension tracking system such as providing an aggregated overview of accrued entitlements and projected retirement income from all possible pension sources in a simple and understandable manner.
- The information to be provided in a pension tracking system and how it should be presented to citizens, bearing in mind people's cognitive and behavioural traits, e.g., layered presentation of information.
- The technical requirements for creating the pension tracking system such as live access and

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digital ID, uniformity of projections methodology and data transmission standards etc.

- The governance and implementation strategy of a pension tracking system, e.g., legislative requirements and progressive implementation.

EIOPA has also identified a set of principles, good practices, and examples that national competent authorities can use to facilitate citizens' access to personal pension information. The consultation paper drew on the experience provided by a **Practitioners Network** on current existing pension tracking systems within the European Economic Area as well as on responses from the national competent authorities.

EIOPA invites stakeholders to provide feedback to this consultation paper by responding to the questions via the online survey by 08 September.

2. Consultation paper on technical advice on pension dashboards

The consultation paper on pensions dashboards sets out proposals for the development of pension dashboards, which will support the EU and the Member States in monitoring the adequacy and sustainability of pension systems.

EIOPA recommends developing a live pension dashboard, an online visual tool that enables users to view and interact with different indicators through the same platform. The dashboard provides a comparable, transparent, and up-to-date view of the adequacy and sustainability of national pension systems. EIOPA's technical advice proposes that the existing adequacy and **sustainability indicators proposed by the European Commission** such as demographic and macroeconomic assumptions are complemented also with indicators that relate to private pension providers, including insurance undertakings and institutions for occupational retirement provision.

EIOPA invites stakeholders to provide feedback to this consultation paper by responding to the questions via the online survey by 8 September.

The final advice to the European Commission will be submitted in December 2021 together with impact assessments as well as feedback statements on the consultation responses of stakeholders.

Sources—(1) **Consultation paper on technical advice on pension tracking services**; (2) **Consultation paper on technical advice on pension dashboards**.

* * *

FECIF—NewsFlash—89/2021—EU Council: Slovenian Presidency programme 1 July - 31 December 2021

Executive Summary—The programme of the Slovenian Presidency of the Council of the European Union, in office from 1 July to 31 December 2021, was published today.

Analysis—The six-month Slovenian Presidency of the Council of the EU began today, 1 July. Under the slogan **“Together. Resilient. Europe.”**, Slovenia will focus its efforts on the following priorities:

- Facilitating the EU's recovery and strengthening its resilience;
- Reflecting on the future of Europe, in the framework of the Conference on the Future of Europe;
- Strengthening the rule of law and European values;
- Increase security and stability in the European neighborhood.

Slovenia's priorities for the second half of 2021, which are part of the European Council's New Strategic Agenda 2019-2024, aim to contribute to ensuring the existence and development of the European Union. Slovenia assumes the

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presidency at a crucial time, when the European Union is adopting important legislative packages on the green and digital transformation and the strengthening of the EU's resilience. Therefore, Slovenia sees the presidency as an opportunity to enhance integration within the EU27 and within EU institutions, as well as to steer development towards an innovative and creative community based on sustainable development.

This is the second time that Slovenia holds the rotating Presidency of the Council of the European Union. Slovenia will complement the work of the current trio, which also includes Germany and Portugal; with its initiatives and activities, it will prepare the way for the next trio to take over.

Regarding topics and files of interest with regard to **financial services**, during the Slovenian Presidency considerable work will be devoted to further measures for the prevention of money laundering and terrorist financing, based on the European Commission action plan. Other important activities in the area of financial services will relate to legislative proposals on digital finance, including the regulation of the crypto-assets market, strengthening of the financial sector's digital operational resilience, and the establishment of the European Green Bond Standard.

As regards **insurance**, the Slovenian Presidency will focus on revising the Solvency II Directive, which will guarantee safe and solvent insurance companies.

The Presidency will also further initiatives to strengthen the Capital Markets Union, with the aim of facilitating access to finance for businesses.

The Slovenian Presidency will strive for as much progress as possible regarding the proposal for Corporate Sustainable Reporting Directive (CSRD), the main goal of which is to improve the reporting of

sustainable information of certain large companies and thus target investments at companies striving to address sustainability issues. In the area of company law, work is expected to begin on a legislative proposal related to sustainable corporate governance.

Sources—The programme of the Slovenian presidency is available upon request to either FECIF or GSCGI.

* * *

FECIF—NewsFlash—87/2021—ECB: takes over supervision of systemic investment firms

Executive Summary—The European Central Bank (ECB) will supervise the largest and most systemic investment firms under new European Union (EU) legislation, which applies as of 26 June 2021.

Analysis—These investment firms must apply for a banking licence and as a consequence will be supervised by the European Central Bank. The new legal framework aims to better address the specific activities and risks posed by investment firms.

The investment firms that will become subject to European banking supervision are those that provide key market and investment banking services and are thus exposed, in a similar way to banks, to credit and market risk. More specifically, the EU legislation defines systemic investment firms as those that trade financial instruments on their own account or place financial instruments on a firm commitment basis and have total consolidated assets above €30 billion. Such investment firms are seen as holding important risks on their balance sheet. The EU legislation on investment firms comprises the Investment Firms Directive, which EU Member States have to transpose into national law, and the Investment Firms Regulation, which is directly applicable in all EU Member States as of 26 June 2021.

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The first set of investment firms newly authorised as banks are expected to be added to the [list](#) of supervised banks in the second half of 2021, thus becoming subject to European banking supervision.

Sources—More information is available [here](#).

* * *

FECIF—NewsFlash—85/2021—European Commission: Capital Markets Union - new rules for banks and investment firms ensure proportionality and foster resilience

Executive Summary—Two new sets of rules in the area of banking and investment will enter into force over the coming days.

Analysis—

1. The Investment Firm Directive and Investment Firm Regulation will come into application on Saturday, 26 June 2021.

They will introduce a new tailored, targeted set of rules which will make life simpler for smaller investment firms while the largest, systemic investment firms will remain under the same prudential regime as European banks. These new rules – agreed by the European Parliament and the Council in November 2019 – are part of the EU's efforts under the Capital Markets Union to

foster competition and to encourage smaller firms to participate more actively in the EU's capital markets. Additional information on the rules, as well as clarifications related to the entry into force of implementing measures is available [here](#).

2. The Capital Requirements Regulation II (CRR II) comes into application on Monday, 28 June 2021.

The CRR regime establishes the [prudential requirements](#) for banks and large investment firms, in particular for capital and liquidity, as well as requirements on reporting of prudential information to supervisors and on disclosing prudential information to the markets. The new CRR II rules – agreed by the European Parliament and the Council in May 2019 – will introduce more proportionality into EU rules for smaller financial institutions, as well as increase the banking sector's resilience by including new requirements related to banks' leverage and stable funding. They also introduce more risk-sensitive rules for calculating capital requirements.

Sources—The Investment Firm Directive is available [here](#) and Investment Firm Regulation [here](#). The Capital Requirements Regulation II (CRR II) text is available [here](#).

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CIFA INFORMS...

CIFA's SIDE EVENT ON THE MARGINS OF THE 2021 UNITED NATIONS' ECOSOC
"FINANCING FOR DEVELOPMENT FORUM (FfD)"

Tuesday, April 13, 2021 —Videoconference via Zoom conducted by CIFA

"This event has been co-hosted by the Permanent Mission of Uruguay to the United Nations"

AFTER COVID-19, NEW THINKING ON CREATING REAL VALUE AND FINANCING THE SDGs?

All the valuable information, including UN ECOSOC FfD main forum program and Side-Events' program, CIFA's side-event program, the Welcome Address, the Introductory Remarks and the main debate video, can be found on...

<https://cifango.org/UN-ACTIVITIES>



How UNCLE SAM GETS MOST OF THE PIZZA

...article by Duncan Teed—US Tax & Financial Services, Member of GSCGI/SAIFA

So, you've been living in the US, maybe you were born there, or attended university and then stayed. You've worked hard, built up some savings, maybe founded a successful business.

Now you are heading elsewhere in the world. Maybe your spouse wants to be closer to family overseas or a new opportunity opens up; whatever the reason, you're going to expatriate.

Your old friend "Uncle" Sam calls you, "Let's have a little party before you go, meet me at the pizza parlor." So, a party for you, feels great! You often end up picking up the tab when you get together with Sam, but this time should be different, it is your farewell meal.

At the agreed-upon time, Sam is at the pizza parlor, with a large pizza in front of him; the pizza is cut in ten slices. He is already eating four of these at once (40% of the pizza), this is Uncle Sam's excessive style. Meanwhile, you get drinks, napkins, you're a civilized person after all. By the time you are ready to eat Sam is done with his first four slices and is hungrily eyeing the remaining six slices.

"Ah, gee, I'm sorry I took so much and didn't wait." Sam says, "I'm just anxious with you leaving; not sure what I'll do when you're gone, but here, I'll only take a little more and leave the rest to you." Suddenly, Sam points behind you and exclaims, "Look, it's Roger Federer!" You turn, to see someone wearing a tennis polo but otherwise bearing no resemblance to Roger Federer.

When you turn back to Sam you find that despite his reassurances, he is again taking a lot of the pizza. He has taken two more slices and cut a third slice in half while you were distracted, essentially taking about 40% of the remaining pizza (so he has taken about 60%-64% of the total pizza).



Some farewell party this is! Sam knows this is your favorite pizza and still he took over half of it and then left you with the bill too! It seems your dear friend Uncle Sam doesn't want you to leave and is going to make it painful to do so.

Now, replace pizza with your total worldwide estate and your old friend Uncle Sam with the US government and you have an idea of what the proposed Ultra-Millionaire's tax, including an exit tax, will be like. Elizabeth Warren and a few colleagues from the House have proposed a federal wealth tax. This is classic Robin Hood tactics and no matter your personal political or economic thoughts on the issue the idea currently has broad support within the United States.

The Wealth Tax

So, what is this wealth tax? It is a proposed annual tax that targets the wealthy, specifically those with over \$50 million in worldwide assets. Read that



How UNCLE SAM GETS MOST OF THE PIZZA

...article by Duncan Teed—US Tax & Financial Services, Member of GSCGI/SAIFA

again, worldwide assets, not just US assets. Such households will face an annual tax equal to 2% of their household asset value. If you have over a billion in assets, then you are looking at a 6% tax on amounts over \$1 billion.

This proposal includes: (i) an increase in the IRS enforcement budget, (ii) a minimum (but undefined) audit rate for those subject to the tax, and (iii) a new 40% exit tax on net worth of anyone who renounces their US citizenship (and the use of FATCA and IGA data to uncover individuals who would be subject to this exit tax).

The Pizza Robbery / Exit Tax

You know who is an even easier target for taxes than rich Americans? Rich American citizens who are expatriating! They won't even be able to vote (post expatriation), so the arrangement is perfect!

This is the part of the proposed wealth tax covered in the pizza story above. Essentially, any US citizen who expatriates and has over \$50 million in assets will be hit with a 40% wealth tax. Not pleasant, but the argument may be that if you stayed put you would face the estate tax at similar rates when you died.

Here is the fun twist, you may not be escaping the estate tax even after expatriation. Depending on your expatriation status and who you make gifts or bequests to, another 40% tax could be payable by the recipient. As an expatriate, any gifts or bequests you make to a US resident or citizen will be subject to a 40% tax. This how you end up with only about 4 out of 10 slices of pizza.

Potential Planning

There is already an exit tax in the US. It applies to citizens and certain long-term residents. If they have over \$2 million in assets they are taxed on the

unrealized gains of their assets upon expatriation.

Several strategies exist for planning for this tax. You can establish a trust of which you (as the to-be-expatriate) are not a beneficiary. Assets within the trust will not then be part of your household assets and therefore escape the tax. So, you save money by not being able to use it (though your family can).

Other potential strategies are highly dependent on the specific circumstances of the expatriating individual.

EXAMPLES

A few examples help illustrate the proposed wealth tax: [1]

An individual, Eric, with a small business valued at \$25 million; retirement and investment accounts of \$10 million, and real estate and other assets totalling \$12 million.

- Pays no wealth tax as total household wealth is \$47 million.

A business founder, Sue, with a large stake in a public company; total household assets valued at \$300 million.

- Annually pays 2% of total household assets over \$50 million to \$1 billion; in this instance, 2% of \$250 million leads to an annual wealth tax liability of \$5 million.

Head of household with large investments and global property portfolio; total household assets of \$10 billion.

- Annually pays \$19 million on the taxable 2% wealth of \$950 million up to \$1 billion, and then \$540 million on the \$9 billion in excess of the first \$1 billion. Leading to a total annual tax liability of \$559 million (even if all these assets are outside the US).

How UNCLE SAM GETS MOST OF THE PIZZA

...article by Duncan Teed—US Tax & Financial Services, Member of GSCGI/SAIFA

A few examples of the exit tax portion of the proposed legislation:

An individual, Eric, with a small business valued at \$25 million; retirement and investment accounts of \$10 million, and real estate and other assets totalling \$12 million; decides to expatriate.

- ➔ Pays no exit tax as total household wealth is \$47 million (still may be subject to existing US exit tax). [2]
- ➔ Assume Eric's business is valued at \$30 million, putting household assets at \$52 million; now Eric will face an exit tax of \$800,000 upon expatriation.

A business founder, Sue, with a large stake in a public company; total household assets valued at \$300 million; decides to expatriate.

- ➔ Will face an exit tax of 40% on \$250 million; \$100 million (even if Sue has been a dual-national and is returning to her home country, and even if her business is located there).

Head of household with large investments and global property portfolio; total household assets of \$10 billion.

- ➔ Will face an exit tax of \$380 million.

Currently, the wealth tax is simply a proposal. Biden's administration stated its view of tax reform differs from Warren's. Some U.S. constitutional scholars argue a federal wealth tax constitutes a "direct tax", which is unconstitutional and therefore invalid; big surprise – others argue the opposite!

While this is only a proposal right now, the current expatriation process often takes several months to process. If tax planning is desired, such planning is best performed several years in advance of actual expatriation. Even if this proposal does not become a law, it does highlight that rich individuals expatriating are a popular target for revenue raising. The current exit tax (taxing gains on most assets of expatriating individuals with over \$2 million in assets) is quite punitive. Based on the current proposal the situation for expatriates is unlikely to improve in the near term.

The best time to address potential entanglements with US taxes is before being subjected to them. If you have any questions about investing in the US, working there, or potentially immigrating into the US please reach out to discuss the matter. For more information, you can email Patrick Hoza or Duncan Teed or telephone them on +41 44 387 8070.

[1] All individuals in these examples are US citizens.

[2] The existing expatriation law applies to certain individuals with assets over \$2 million in value.

Duncan Teed is an attorney with 12 years' US tax experience in private client tax planning, estate planning and transaction structuring. Duncan works in international tax planning with a focus on trust matters and designing efficient structures for US expats or non-US persons with exposure to the US tax regime. This involves compliance for international structures as well as advice and consulting on transactions or structures with US exposure.



ETUDE COMPAREE: LA PROTECTION PATRIMONIALE EN TERRE D'ISLAM ET PROJET DE REGLEMENTATION DU TRUST EN DROIT SUISSE

La finance islamique a le vent en poupe. De plus en plus de banques privées annoncent une offre «Charia». Qu'en est-il des outils islamiques de protection du patrimoine? Quel en est le fondement local endogène et de quel emprunt exogène bénéficie-t-elle?

Un fondement religieux

Les Oulamas, ces savants-jurisconsultes musulmans, ont codifié un droit spécifique conformément à la Charia (étymologiquement: voie à suivre afin de se conformer à l'esprit divin). Celle-ci se réfère prioritairement au Coran comme source normative, puis aux Hadiths, c'est-à-dire aux faits et dires du prophète, et enfin à la pratique du Quiès, c'est-à-dire le raisonnement par analogie.

Un Hadith nous intéresse tout particulièrement, celui du Kalif Omar Ibn Al Khattab, vénéré auprès des musulmans pour sa générosité et son sens de l'équité. Il aurait demandé au Prophète Mohamed ce qu'il pourrait faire de sa terre pour être le plus agréable à Dieu. Le prophète lui aurait répondu: «immobilise-la de façon à ce qu'elle ne puisse être ni vendue, ni donnée, ni transmise en héritage et distribue les revenus aux pauvres». C'est de cette source que découle la planification patrimoniale en terre d'Islam.

Il est intéressant d'observer que, tout comme le Trust, les institutions coraniques figent un patrimoine dans le temps pour qu'il soit préservé et administré en vue d'un objectif déterminé.

Comment cela fonctionne?

Le habous/Waqaf (selon les régions) est défini comme l'acte juridique par lequel une personne, transfère un ou plusieurs de ses biens, généralement immeubles, et les met hors du commerce en les affectant à perpétuité à une œuvre, à un but pieux, charitable ou social, soit d'une manière absolue,

exclusive de toute restriction (habous public), soit en réservant la jouissance de ces biens à une ou plusieurs personnes déterminées (habous de famille). A l'extinction des bénéficiaires du droit de jouissance, le habous de famille devient un habous public.

Quelles sont les similitudes entre le habous/Waqaf et le trust?

Emergents dans des aires culturelles différentes, le habous/Waqaf et le Trust ont pour point commun d'être des institutions *sui generis*, qui puisent leur fondement dans la religion, tout en poursuivant une finalité d'intérêt général (Charitable Trust).

Ils peuvent être dédiés à des bénéficiaires indéterminés et ont un fonctionnement quasi identique:

- les deux nécessitent un Settlor ou Waqef, un trustee, Nadher ou Moutawali, un ou plusieurs bénéficiaires.
- Les deux font appel au juge (Cadi), aux origines souvent religieuses (ecclésiastiques en Angleterre—Chancellor—et musulmanes dans les pays adoptant le habous).
- Le trust comme le habous peut être soit privé (habous familial, Private trust) soit public (Waqaf khairi, charitable trust), temporaire ou permanent.
- A la fois dans le habous et dans le trust, le corpus devient inaliénable à vie en faveur des bénéficiaires successifs et ce, en dehors du droit des successions.

L'influence du Common Law

Ces aires culturelles ne sont ni cloisonnées ni étanches. La mondialisation, qui a succédé à la colonisation, puis à la décolonisation, a permis aux différentes traditions de se moderniser en s'ouvrant à l'altérité. Certains pays comme Dubaï (Trust Law of 2005/Decree-Law No 19 of 2020) ou Bahreïn (Decree-Law No. 23 of 2016) ont adopté dans

ETUDE COMPAREE: LA PROTECTION PATRIMONIALE EN TERRE D'ISLAM ET PROJET DE REGLEMENTATION DU TRUST EN DROIT SUISSE

leur législation interne une loi sur les trusts. Ce rapprochement terminologique du common Law s'explique pour Bahreïn à la lumière de son ancien statut de protectorat britannique. Quant à Dubaï, cela s'explique par la présence de son grand nombre d'expatriés et surtout par son «Dubai International Financial Center (DIFC)». En tout état de cause, cette référence explicite au Trust s'articule sur un socle culturel local, bien spécifique, à savoir habous/Waqaf, qui existe sans discontinuité depuis le 8ème siècle sous le nom des institutions précédemment citées.

Le dispositif juridique de la Charia, comporte un autre outil majeur de planification patrimoniale/successorale: la «hiba», ou donation. En effet, en droit musulman, contrairement au testament, dont seul 1/3 du patrimoine du *de Cujus* peut être légué en faveur d'un individu non-héritier, un donateur peut transférer de son vivant la totalité de son patrimoine sans autre considération de réserves héréditaires.

Aussi, si le transfert du patrimoine du vivant du Settlor au Trustee revêt un réel dessaisissement, il peut être considéré comme donation sans aucune problématique de réserve successorale.

Quid du droit suisse avec son projet de loi sur les Trusts dans le contexte Charia?

Petit pays de par son territoire, la Suisse bénéficie pourtant d'un grand rayonnement international en matière de gestion financière. Ainsi il n'est pas surprenant de constater que les liens entre le Moyen Orient et la Suisse soient solides et historiques. Les banques privées de la place gèrent un montant important d'avoirs dont les ayants droits sont résidents au Moyen Orient et donc potentiellement soumis à la loi Charia.

Ces avoirs sont souvent détenus par des trustees, basés et régulés en Suisse en application de «Deed» de droit étranger. Aussi, malgré le fait que le droit

civil suisse ne reconnaisse pas encore en tant que telle l'institution du Trust, ce dernier est d'ores et déjà présent en Suisse, depuis l'entrée en vigueur de la Convention de la Haye sur les trusts. Suite à la motion 18.3383, le Parlement a chargé le Conseil fédéral de créer les bases légales permettant l'inscription d'un trust dans le droit suisse. Un groupe d'experts, mandatés par l'OFJ, travaille depuis juin 2018 sur des propositions pour la réglementation du trust en Suisse.

Il sera intéressant d'observer dans quelle mesure la future loi sur les trusts de droit suisse consolidera cette relation en y apportant une logique nouvelle. Elle ne manquera pas d'harmoniser tant le droit applicable au trust que la régulation du trustee et la gestion du patrimoine en Suisse avec une compétence en matière islamique.

Cette future loi est appelée à répondre à un besoin de protection, de transmission et de pérennité du patrimoine des clients du Moyen Orient dans le contexte d'un monde musulman en pleine mutation, partagé entre souci de tradition et quête de renouveau. Le Trust de droit suisse, en visant à prendre en considération l'esprit des fondements du droit musulman, peut quant à lui, avec son sens de l'ouverture et de la souplesse, offrir pleinement un service juridique «Swiss made» dans le respect de l'altérité, dont la Suisse a le secret.

Méjid MANAÏ

Head of Corporate & Trust services

CoRe Service SA

Membre du GSCGI

CoRe
- SERVICE -

EXIGENCES QUALITATIVES ET QUANTITATIVES DES CONCLUSIONS

...article de Grégoire Geissbühler—Centre de droit bancaire et financier—<https://cdbf.ch/1186/>

Dans son arrêt [4A_287/2020](#) du 24 mars 2021, le Tribunal fédéral se penche sur la question de l'exécution d'une décision de reddition de comptes, et y apporte trois cautions: les conclusions à exécuter doivent être précises, possibles et couvertes par la décision au fond.

Une société et une banque étaient liées par un ensemble de contrats bancaires, en particulier pour l'achat et la vente d'options ainsi que par un crédit lombard, qui a donné lieu à des appels de marge contestés.

Ce litige a déjà donné lieu à deux arrêts publiés du Tribunal fédéral ([ATF 139 III 49](#), commenté *in* [cdbf.ch/861/](#), sur la portée de la reddition de compte dans les contrats complexes, et [ATF 143 III 420](#) sur l'interprétation des arrêts du Tribunal fédéral).

La mandante n'avait que partiellement obtenu gain de cause dans sa procédure en reddition de compte, et la banque ne s'est de plus que partiellement exécutée. La mandante a donc introduit une action en exécution, demandant:

1. un relevé compte final complet et documenté,
2. la liste des positions détenues lors de la période litigieuse,
3. les documents relatifs à son exposition et les valeurs des positions prises,
4. les ratios et calculs ayant servi aux appels de marge,
5. les procès-verbaux de certaines conversations téléphoniques entre employés de la banque, et
6. une lettre confirmant l'exhaustivité des documents remis.

Seule la deuxième conclusion a été (partiellement) admise. La mandante recourt au Tribunal fédéral.

Le Tribunal fédéral rappelle tout d'abord les conditions de l'action en exécution, qui nécessite une décision entrée en force, suffisamment claire pour que le juge puisse en déduire la prestation demandée, et portant sur une obligation qui n'a pas été éteinte depuis, avant de les appliquer au cas d'espèce.

Il indique de plus que la mandante devait indiquer avec précision (*«konkret und klar»*) les documents auxquels elle prétendait avoir droit. Nous y reviendrons.

Concernant la première conclusion, sur le relevé de compte final, le Tribunal fédéral rejette cette prétention comme l'instance inférieure, faute de précision suffisante – il n'est pas possible de contrôler sur la base de son libellé si les informations fournies correspondent à la bonne exécution de la reddition de compte, et la mandante supporte le fardeau de la preuve dans la procédure d'inexécution.

La deuxième conclusion avait été admise, mais elle est limitée aux documents visés par le premier jugement, sans que la portée de celui-ci ne puisse être étendue. La troisième conclusion visait des documents semblables, et qui sont refusés pour la même raison.

Le grief concernant le refus de produire les calculs justifiant l'appel de marge pourrait être fondé, car un tel document – même interne – permet de comprendre l'activité du mandataire, mais le Tribunal fédéral estime que la mandante n'a ici pas suffisamment allégué la différence entre les documents demandés et ceux effectivement reçus. De plus, la production des chiffres sous-jacents apparaît impossible et leur absence n'empêche pas la compréhension des documents remis.

Certaines transcriptions des conversations téléphoniques n'ont pas été remises, faute d'avoir pu être établies. Cela ne donne toutefois pas droit

EXIGENCES QUALITATIVES ET QUANTITATIVES DES CONCLUSIONS

...article de Grégoire Geissbühler—Centre de droit bancaire et financier—<https://cdbf.ch/1186/>

aux informations sous-jacentes et documents qui s'y référerait, qui ne sont pas couverts par la décision sur la reddition de compte.

Enfin, la lettre confirmant l'exhaustivité ne faisait pas l'objet de la décision à exécuter, et ne peut donc être demandée.

En définitive, les documents demandés par la mandante ont soit déjà été remis, soit n'étaient pas couverts par la décision à exécuter, soit relevaient d'une conclusion trop vague pour être recevable. Le recours est donc rejeté.

Demandez au mandant ce qu'il souhaite obtenir par la reddition de compte, et il répondra: «Tout». Tout ce qui lui servira à évaluer sa prétention et ses chances de succès, tout ce qui lui permettra de comprendre le déroulement des faits, tout ce qui accroîtra sa marge de manœuvre dans une négociation, tout ce qui prouvera sa prétention potentielle.

L'action prévue par l'art. 400 CO offre en théorie au mandant les outils pour satisfaire à ces besoins. La reddition de compte est tour à tour décrite en doctrine comme devant être «claire», «détaillée», «véridique», «complète» ou «compréhensible». Le choix de ces adjectifs montre que le droit matériel est profondément *qualitatif*.

À l'inverse, le droit de procédure, et le droit de l'exécution en particulier, est *quantitatif*. Si l'exécution demandée ne consiste pas en une somme d'argent ou sur une prestation objectivable,

déterminer si le débiteur a correctement presté ou si l'exécution peut être exigée est une gageure. L'arrêt 4A_287/2020 en est une bonne illustration: même les conclusions qui avaient été admises au fond ne sont pas nécessairement exécutoires si elles ne sont pas suffisamment précises.

Le résultat, à savoir une prétention fondée mais inexécutoire, est regrettable. Mais la décision du Tribunal fédéral n'en est pas fautive pour autant. Les exigences du droit de fond et de procédure se cumulent, ce qui joue en défaveur du mandant.

Ce cumul explique également le recours à d'autres outils: tentatives d'actions en protection des données (récemment stoppées par le Tribunal fédéral: 4A_277/2020), de demandes basées sur l'art. 72 LSFin ou recours à une plainte pénale, espérant ainsi profiter des pouvoirs plus étendus du Ministère public en la matière. Des conseils plus créatifs pourront – si possible – tenter une procédure préalable dans un pays étranger dont la tradition juridique est plus propice à la récolte de preuves, s'adresser à un tiers pour obtenir des informations (p. ex. un réviseur) ou tenter une procédure pilote pour tester la réaction du mandataire et récolter un premier jeu de pièces. Cette créativité ne remplacera toutefois pas une procédure plus adaptée au droit du mandat.



CENTRE DE DROIT
BANCAIRE ET FINANCIER

PLAN-CADRE D'ASSURANCE RESPONSABILITÉ CIVILE PROFESSIONNELLE

... POUR LES MEMBRES DU GSCGI

Le GSCGI offre à ses membres une couverture cadre d'assurance exclusive, négociée avec les assureurs ZURICH et LIBERTY. Ces deux assureurs sont nos partenaires exclusifs autorisés à présenter les couvertures des risques (ci-après) aux conditions préférentielles pour les Membres du GSCGI.

Ces couvertures étendues et complètes — Responsabilité civile professionnelle (RCPI) couvrant également les cas de médiation; Responsabilité des dirigeants (D&O); Assurance Fraude (FR); Assurance Cyber (AC) — offrent une sécurité accrue aux Gestionnaires de fortune et Conseillers financiers dans leur activité quotidienne. L'assurance professionnelle met les professionnels

à l'abri de situations inattendues et génératrices de conséquences financières parfois dévastatrices.

Pratiquement, les Membres pourront s'adresser au Secrétariat du GSCGI, ou à la Commission Assurances, pour obtenir tous les renseignements. Un formulaire/questionnaire spécifique du GSCGI a été édité pour obtenir les offres des assureurs, il figure sur le site web du Groupement et est donc à disposition des Membres. Il devra être complété par le gestionnaire de fortune et le Conseiller financier pour demander les offres avec la preuve de sa qualité de Membre et envoyé confidentiellement au courtier Patrimigest.

Le GSCGI n'a pas accès à ces informations.

COUVERTURES D'ASSURANCES

Responsabilité civile professionnelle (RCPI)

Elle couvre les actes fautifs commis par la société du gérant indépendant ou l'un de ses représentants en cas d'erreur, d'omission dans le cadre de l'activité professionnelle qui entraînerait un préjudice financier d'un tiers.

Les fautes les plus courantes sont:

- Mauvaise exécution d'un ordre
- Oubli d'un délai
- Non respect de la stratégie convenue
- Rupture abusive d'un crédit
- Défaut de conseil
- Délit de fraude fiscale

Qui est assuré?

1. L'institution financière et/ou ses filiales
2. Toutes les personnes physiques agissant dans l'exercice de leur fonction dans la société (salarié, stagiaire, dirigeant, administrateur)

Quelle est la couverture? L'assureur va payer:

- Les frais de médiation
- Les frais engagés pour la défense des assurés
- Les dommages et intérêts dus au lésé après jugement et condamnation
- Les réparations résultant d'un accord amiable (après acceptation de l'assureur)

Responsabilité des dirigeants (D&O)

En tant que dirigeant de votre entreprise, vous n'êtes pas à l'abri de revendications à titre personnel même s'il s'agit d'une erreur d'un employé. En effet, un lésé peut aller chercher une responsabilité personnelle vers le directeur ou l'administrateur de la société pour obtenir réparation du préjudice sur les biens propres du dirigeant.

Il peut vous être reproché une mauvaise décision ou de ne pas avoir pris une décision, d'avoir fait un choix stratégique contraire au but social, d'avoir effectué des investissements hasardeux, communication financière insuffisante ou erronée, manque de surveillance des dirigeants ou

d'une filiale. Font aussi partie les conflits du travail: licenciement abusif, discrimination, harcèlement.

Qui est assuré? Tous les dirigeants exécutifs et les administrateurs ainsi que leur famille directe.

Quelle est la couverture?

- Les frais engagés pour la défense des assurés à titre privé
- Les dommages et intérêts dus au lésé après jugement et condamnation
- Les réparations résultant d'un accord amiable (après acceptation de l'assureur)

Assurance Fraude (FR)

L'évolution technologique et économique des sociétés financières a beaucoup évolué et les risques au sein de ces entreprises aussi. Le risque de fraude devient élevé dans les services financiers surtout en fonction de l'importance croissante des équipements informatiques. L'infidélité et la malhonnêteté des employés sont aussi une source de fraude. L'usage intensif d'Internet fragilise les services en terme de risques de sabotage ou de terrorisme cybernétique. Des fraudes peuvent aussi être commises sur les marchés ou sur l'octroi des crédits.

Qui est assuré? L'entreprise

Couverture d'assurance: Une telle assurance a pour but de garantir les pertes subies par la société suite à la fraude:

1. Commise par un ou plusieurs employés y compris la fraude informatique et le transfert de fonds
2. Fraude informatique interne ou externe (hacking)
3. Frais de procédure et honoraires d'avocat

Assurance Cyber (AC)

Le risque cyber peut affecter l'activité des Gestionnaires de fortune indépendants et des Conseillers financiers.

Couvertures: Cyber-RC, restauration des données et des systèmes, gestion des crises & perte d'exploitation.

NOUVEAUX MOYENS POUR PROTÉGER LA PLACE FINANCIÈRE DES CYBERRISQUES

[...] La BNS et SIX ont mis en place un réseau de communication pour les banques permettant de transmettre des informations de façon sûre et flexible. Le nouveau réseau, appelé Secure Swiss Finance Network (SSFN), sera opérationnel dès novembre. Il se base sur une technologie développée par l'EPFZ et s'adresse aux banques actives dans le trafic des paiements, soit entre 250 et 300 établissements dans le pays. Ce système pourra être utilisé par d'autres industries. [...]

Le Temps—July 16, 2021—[Read on...](#)

MASSIVE PASSIVE: 50 YEARS OF THE INDEX FUND

[...] The success of passive investing has been breathtaking. There is now over \$16tn in index funds of various stripes ... Throw in non-public internal passive strategies, and we are probably talking of well north of \$25tn. The industry's growth has been breathtaking, but always accompanied by a fear it will somehow wreck markets. [...]

Financial Times—July 19, 2021—[Read on...](#)

HOW BLOCKCHAIN IS SHAKING SWIFT AND THE GLOBAL PAYMENTS SYSTEM

[...] A crucial linchpin of the world's financial plumbing is ripe for disruption. Last month, the Brussels-based utility called the Society for Worldwide Interbank Financial Telecommunication (Swift) announced that six global banks had embraced its plan to upgrade cross-border payment systems. [...]

[...] What blockchain and the cryptocurrencies it supports could do to financial plumbing, not just inside countries but between them. This could reshape not just finance, but US geopolitical leverage as well. [...]

Financial Times—July 22, 2021—[Read on...](#)

TRADING APPS REDUCE MARKETS TO A GAME

[...] Robinhood and similar online platforms do nothing to help the little guy or improve the financial system. Technology has made markets faster, but arguably not better. How to fix things? It's possible that Robinhood will become a victim of its own success. [...]

[...] All this underscores how far our market system has come from what it was originally designed to do, which is to intermediate between savers and borrowers by funnelling money to where it is most productive. [...]

Financial Times—July 25, 2021—[Read on...](#)

TONTINES: NOT SUCH A MURDEROUS IDEA

[...] With people living longer and pension schemes underfunded, resurrecting them for the 21st century has a certain appeal. [...]

Financial Times—July 25, 2021—[Read on...](#)

L'INTRODUCTION EN DROIT SUISSE DES DIVIDENDES INTERMÉDIAIRES

[...] D'une manière générale, le droit des sociétés suisse est flexible et a su s'adapter aux développements de l'économie et de la technologie. Un bon exemple en est la récente réforme législative de février 2021 qui a permis l'introduction des droits-valeurs inscrits dans un registre électronique, tel que la blockchain. Cela dit, un sujet sur lequel le droit de la SA ne s'est pas – encore – adapté est celui des dividendes intermédiaires ou intermédiaires. [...]

[...] La Suisse devrait permettre dès 2023 le paiement de dividendes échelonnés prélevés sur le bénéfice de l'exercice en cours. Un facteur d'attractivité important, à un moment où des éléments fiscaux sont remis en question. [...]

Le Temps—July 18, 2021—[Read on...](#)

GOVERNANCE TOKENS—COORDINATING THE HUMAN ELEMENT

...article by Yves Longchamp, Head Research, SEBA Bank AG, Membre Partenaire du GSCGI

Who is in charge of the code on which blockchains and their applications run? Who runs the multibillion-dollar organisations of the most successful applications? When facing a difficult decision, how does a community that prides itself on trustless systems come to a consensus on which direction to take?

We cover how governance in blockchain has evolved from its nascent disorganised beginnings with the ideal of perfect sanctity of code to multibillion-dollar DAOs that coordinate and incentivise the human elements needed for success. We cover how governance tokens confer certain rights and responsibilities on their holders. We discuss the mechanics of a DAO and the process of proposing and implementing change. Finally, we cover how governance models may be improved in the future to represent the broader community better.



Introduction

The Decentralised Autonomous Organisation (DAOs) run by the holders of the governance tokens performs the role similar to the upper management of an organisation. They vote on strategic decisions, democratically altering the protocol to perform and grow in a fastdeveloping ecosystem. Blockchain systems are constantly changing with new users, needs and applications, and code needs human intervention to keep up. DAOs and governance tokens transparently coordinate this human effort and align the interests of all stakeholders.

“Code is law”

The ideal case for blockchains is that “code is law”, that is, the rules of the open-source code of the blockchain or smart contract solely define the scope of what is possible, and everything done within it is fair play. This is derived from the trustless ethos of blockchain, where any interested individual can read and verify the source code themselves, requiring no middle party or mediator to transact. In the early days of crypto, this philosophy worked well when

the primary use of crypto assets was as a medium of exchange and there were a smaller number of users to support. “User-beware” and “not your key, not your coin” worked well as the simple rules of the game. Governance and discussions on improvement happened in an unorganised fashion on online forums and chats. Iterative upgrades to the protocols were suggested by contributing developers and implemented by the miners. The space was small enough to allow early developers and users to voice their opinions and move the protocol in the direction they wished.

Forks

However, as the crypto ecosystem grew with more diverse use-cases and more significant sums of money became involved, differing factions with differing interests and priorities came to be. Any irreconcilable difference among these factions would result in the splitting up of the protocol through a fork. Two of the most prominent examples of this is the Ethereum fork of 2016 and the Bitcoin fork of 2017.

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In 2016, the very first DAO, which was simply called “The DAO”, ran a very successful initial coin offering (ICO) of about USD 150 mn. It was later exploited and lost USD ~60 mn worth of ether. Vitalik Buterin and the Ethereum developers proceeded with a very contentious fork to refund the investors when Ethereum was only a year old. The fork created two chains that we now call Ethereum (ETH) and Ethereum Classic (ETC).

In 2017, the discussion on how to scale Bitcoin to support the growing user base also led to a fork. Bitcoin Core (BTC) chose to scale with layer-2 solutions like Lightning, and Bitcoin Cash (BCH) increased the block size to support more transactions, sacrificing decentralisation for scalability (see SEBA Bank’s [report on the blockchain trilemma](#)).

The dilemmas and the subsequent forks were very contentious solutions and adversely affected the BTC and ETH brand, even though there were the eventual winners. However, at the time, there were doubts on who among the developers, miners or users were really in charge.

Currently, the Ethereum Foundation, a non-profit, coordinates the efforts of the developers with miners signal their intent to accept or reject the proposal. EIP (Ethereum Improvement Proposal) 1559 is an improvement to make gas fees on Ethereum more predictable and was accepted in the “All Core Developer Meeting”, but there is a growing movement among the miners to fork it as their revenues will be affected.

Utility and Governance Tokens

As decentralised applications (dapps) became popular during the Ethereum ICO boom of 2017, utility tokens first gained prominence. These tokens are used as currency within a protocol in exchange for the service the protocol provides. For example, for every data request to the ChainLink Oracle, a fee in LINK has to be paid. Utility tokens provide no

other rights or risks and therefore suffer from the problem of value accrual. A protocol’s success does not mean that the utility token will have any share in the value generated. Protocols have tried to solve this by burning the tokens earned, decreasing the overall supply, and indirectly increasing the value of remaining tokens. While the problem of value accrual may be partially addressed, utility tokens still do not give the holders any control over the protocol or its direction. Investors remain dependent on the development team, who may not be as motivated to maximise the value of utility tokens as much as the company’s equity shares.

The decentralised finance (DeFi) boom in 2020 saw the popularisation of governance tokens where holders have certain rights over the protocol, its treasury and direction but also underwrite certain risks. Like equity shareholders of a company, governance token holders of a protocol take the opposite side of its users. Whenever the users incur a cost on the protocol, the protocol’s treasury accumulates it. Similarly, the token holders underwrite protocol risk for users through either reimbursement from the treasury or dilution of tokens.

The developer organisation is usually incorporated in the form of a trust, with a certain amount of governance tokens vested to them, ensuring that the goal of value maximisation of the token is shared between the investors and developers. As the protocol matures, an inflation rate rewards active contributors and participants, and the governance is expected to become more decentralised. The trust can then play a minor role, leaving the governance holders to decide the direction of the protocol.

One of the most prominent examples of a governance token is Maker DAO’s MKR. MakerDAO is a lending platform and the issuer of the largest decentralised stable coin, DAI. It was initially founded in 2014 before Ethereum went live and has been in its current form since 2017. To receive DAI,

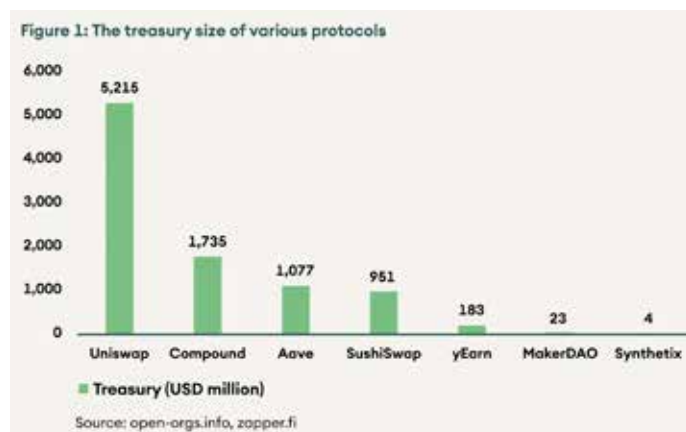
GOVERNANCE TOKENS—COORDINATING THE HUMAN ELEMENT

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users can lock crypto assets in over-collateralised vaults, effectively leveraging their position. When users repay their loan, they pay a stability fee which is accumulated in the protocol treasury. In case there is under-collateralised DAI, MKR holders have to pay through dilution and new MKR is auctioned to meet the shortfall. **This happened once in March 2020** when the crypto markets crashed and caused a shortfall of collateral for 5.4 mn DAI.

The Rise of Decentralised Autonomous Organisation

DAOs have come up to coordinate the efforts of governance token holders and manage the protocol to be more effective in tackling the changing needs of the ecosystem. A DAO enable its governance token holders to participate in a voting mechanism to make decisions when the underlying code is silent or itself needs to be changed. The rules of the DAO define the scope, rights and responsibilities of governance token holders. It also establishes the process by which changes can be implemented. For protocols that earn revenue like some DeFi applications or retained some tokens during distribution, the DAO also controls how the treasury is utilised.



Instead of raising funds through an ICO, governance tokens are usually distributed to users and contributors of the protocol to incentivise protocol adoption and decentralise the governance among the most

interested participants. During the fair launch of YFI tokens, Andre Cronje, the founder of Yearn Finance, famously called it to have “no financial value” as no payment had to be made to acquire YFI. However, control over the direction of a multibillion-dollar protocol and its treasury is desirable, and therefore the tokens are valuable.



In effect, DAOs perform the role of the upper management of an organisation. Governance token holders vote on strategic decisions, democratically altering the protocol to perform and grow in a fast-developing ecosystem. Blockchain systems are constantly changing with growing users and needs, and code needs human intervention to keep up. DAOs and governance tokens transparently coordinate this human effort and align the interests of all stakeholders.

Let us see some DAO proposals to understand better the scope of their powers and when human intervention is required:

YFI dilution—Yearn Finance’s token YFI had a fixed supply that was already fully distributed. As a result, it did not have a good mechanism to reward contributors and was lacking innovation. To overcome this, the DAO **voted to mint** an additional 22% tokens to reward contributors and fund future growth. The original code, in this case, had a fixed

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supply, but the DAO increased the limit to meet the shared objective.

Uniswap governance thresholds—Currently, Uniswap DAO needs 10 mn UNI tokens or USD ~300 mn to propose a vote and 40 mn UNI tokens or about USD ~1.2 bn to pass a vote. **This proposal was to reduce the limits** to propose a vote to 3 mn UNI tokens and achieve a quorum to 30 mn UNI tokens. This proposal was defeated as it was short by 400k UNI votes at 39.6 mn UNI votes in favour. While it would have perhaps allowed for more decentralised governance, there was a concern among UNI holders that lower thresholds might mean lower demand for the tokens and consequently lower price.

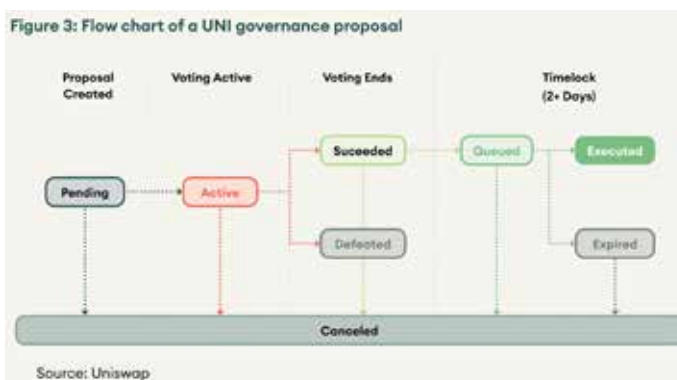
Fei Protocol refund—FEI token is supposed to function as an algorithmic stable coin pegged to USD. However, due to code and design issues, the peg is not established, and FEI currently trades at USD ~0.8. There is an **ongoing vote** to decide whether to refund FEI at USD 1, USD 0.9 or not at all from the protocol treasury.

DAO governance process

The DAO defines a process that must be followed for changes to proposed and implemented. We will use the example of Uniswap governance. All token holders get one vote for each UNI token held. This has a dual purpose – large token holders are more invested in the success of the protocol and therefore should have a higher say, and attacking the governance process through acquisition of majority tokens becomes expensive. To propose a change, the individual typically posts it first on the **discussion forum** to get feedback and gauge whether there is enough interest. Then they must collect the support of holders of 10 mn UNI or 1% of total supply to propose a vote officially. Once the vote is proposed along with the new code, it will pass if it has both a majority and at least holders of 4 mn UNI tokens voting in favour. If it passes, there is a minimum of two-day time lock to ensure the code

is safe to deploy, after which it is deployed to the contract. Some DAOs have a non-binding signalling vote before the actual vote to gauge whether there is interest in a proposed change and towards which direction it is leaning.

Figure 3: Flow chart of a UNI governance proposal



Limitations of DAOs and the Future

DAOs function well when the tokens are evenly distributed. However, in most cases, a few large wallets control a significant part of the tokens. For example, for Compound, just **six addresses control more than 52% of the voting power**. These six addresses can out vote more than 150,000 total addresses that have a positive balance. While it makes sense as they are the ones most invested in the protocol, adequate representation of minority investors is also a must-have for good governance and to achieve the blockchain ethos of decentralisation. **Quadratic voting**, where the number of votes granted per unit of token held decreases exponentially, may be a solution. This gives small voters more meaningful participation in a proposal, and the cost to a single large entity to control the majority of votes becomes much higher. However, this requires proof-of-humanity to be successful, as without it the system can be gamed by breaking up large wallets into multiple smaller wallets to gain disproportionate voting power.

As described above, governance through DAOs is a slow process. Therefore, the founding developer

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team usually has a multi-sig backdoor wallet that can bypass the need for a proposal in case of emergencies. Such a system is needed while the ecosystem is still evolving, and with real values at stake, speed is sometimes necessary to tackle urgent threats. However, this goes against the blockchain ethos of trustless systems and should be phased out as the protocols mature.

While it may seem that the present solutions are imperfect and require a degree of trust, the users still have some protection as they always have the last resort option of forking the protocol and going in their own direction. The side with a higher claim to legitimacy should be the winner, and in previous cases, the side with the users has won, whether it is BTC or ETH.

Conclusion

Governance tokens provide a way to coordinate the human effort required in running a multibillion-dollar decentralised autonomous organisation. The token holders underwrite the protocol risk, and the token accrues value based on the revenue earned by the protocol. Governance tokens have been able to align the interest of all stakeholders, but their distribution and control often lie with a few large players. We look forward to a future where these problems are programmatically solved, and governance tokens and DAOs become the fair controllers of the largest value-creating protocols in the world.



ABOUT THE AUTHOR

Yves Longchamp, Head Research
SEBA Bank AG

Yves Longchamp is Head of Research at SEBA Bank. His professional experience has taken him from the Swiss National Bank to the world of crypto-currencies via major banks and asset management. Market finance and macroeconomics are the research topics that mark out his career. Before joining SEBA, Yves worked at Ethena Independent Investor, Pictet & Cie, UBS and the Swiss National Bank.



ABOUT SEBA BANK

The Future of Digital Banking, Investing & Financing. Founded in April 2018 and headquartered in Zug, SEBA Bank is a pioneer in the financial industry and is the only global smart bank providing a fully universal suite of regulated banking services in the emerging digital economy. In August 2019, SEBA Bank received a Swiss banking and securities dealer licence – the first time a reputed, regulatory authority such as FINMA has granted a licence to a financial services provider with a core capability in digital assets. The broad, vertically integrated spectrum of services combined with the highest security standards, make SEBA Bank's value proposition unique – this is why Banque de France selected SEBA Bank to test the integration of Central Bank Digital Currency (CBDC). CVVC Global Report and CB Insights names SEBA Bank as Top 50 Companies within the blockchain ecosystem.

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SEASONAL WEAKNESS IN THE COMING MONTHS FOR THE S&P500

...article by Bruno Estier Strategic Technicals - <http://bruno.estier.net/> - bruno.estier@bluewin.ch

In October 2020, our analysis focused on the seasonal strength for the S&P500 from October-May. This strength is extending into July, though at a slightly lower rate of ascent. The question is if this rise might extend without a 5% correction into late August, like last year. Since mid-May, the relative strength of the NASDAQ versus the S&P500 (shown on the upper panel - red dotted line) is rebounding. Indeed, currently, a small number of Large Caps, especially in the Technology sector, are contributing to this outperformance. However, Small Caps have a tough time on a relative strength basis (declining green dotted line on upper panel) versus the S&P500, and this divergence has lasted for the last four months. This lack of breadth of the market could become a warning sign for the future. Also, on an international basis, despite good news on the economic front, in particular thanks to higher inflation, the relative strength of Emerging markets versus the S&P500 (orange line) has been declining since March, even recently accelerating down. Thus, we expect both the relative strength of Emerging markets and Small Caps to extend their decline into mid-October and the relative strength of the NASDAQ versus the S&P500 to reach a top near its former high of March 2021 and

start a slow decline lasting into September, along the direction of the arrows displayed on the upper panel. The momentum of the S&P500 (represented on the lower panel by the MACD) has been positive for the past 12 months and thus reflects the recent uptrend. However, since May, the MACD has been slowing down and making a lower high in a very slow and subtle way. This recent re-crossing down signals a slower momentum and would help to initiate a correction when a weekly close might occur below 4200. In that case, the VIX (orange dotted line), also represented behind the S&P500 candle should initiate a progression of higher lows and higher highs. A rise above 20% would signal a break in the descending trendline, joining its highs and confirming the correction phase. We envision two future outlooks: the Green Path allows a rebound near 4150 and a retest of the previous highs near the end of August, then a decline to 3800 near the weekly Cloud. The Red Path would be rather unusual as the decline would extend below 4150 in the summer and reach a final low in October near 3600 - the 38% Fibonacci level of the rise 2190-4393. In both cases, we expect the S&P500 to rebound later along with the October-May seasonality. Meanwhile, Buyers Beware.

Chart of the S&P500 is represented on an arithmetic scale since December 2019 in weekly candles with Ichimoku Cloud. On the upper panel is displayed in the green dotted line of the Relative Strength (RS) of Small Caps versus S&P500, which has been declining since mid-March. The RS of the Nasdaq100 versus S&P500 (in red dotted line), which is rebounding, and the RS of Emerging Equities versus S&P500 (in orange solid line), which has been declining since February 2021. On the lower panel, positive MACD has crossed down again in July, displaying a bearish divergence since May, reflecting a less steep ascent, while the weekly STO remains in an overbought area, where it has recently crossed down signaling a potential correction phase to come.

The S&P500 has spent 9 months above its 20-week Moving Average (now near 4182) while the weekly Bollinger Bands are narrowing and its upper Band (4443) is flattening and should represent a strong resistance. The sharp sell-off on Monday, July 19 may mark the start of a correction phase lasting until October.

Source of data: Stockcharts.com.



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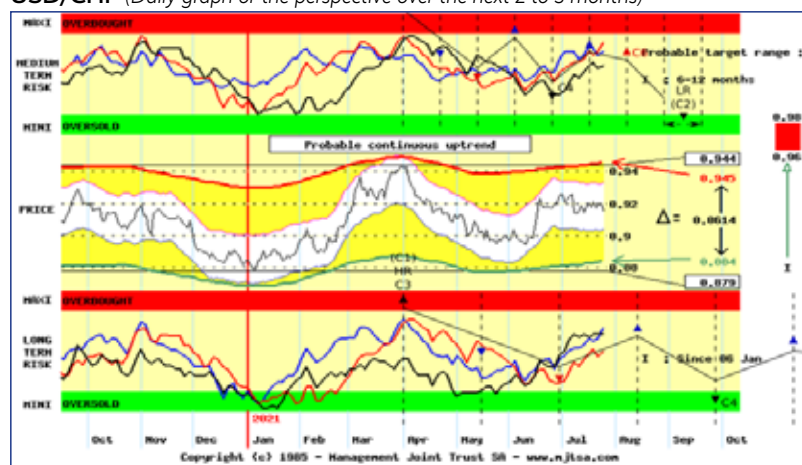
SWISS FRANC COULD STRENGTHEN VS MOST CURRENCIES INTO SEPTEMBER

...article by Jean-Francois Owczarczak - CEO, Management Joint Trust SA - jfo@mjt.ch

Over the last couple of months, the cross-asset environment has turned less cyclical. The US and the Nasdaq100 seem to be decoupling once again, while China, Emerging Markets and European Equities have suffered on a relative basis. These disinflationary trends (US Inflation Expectations did

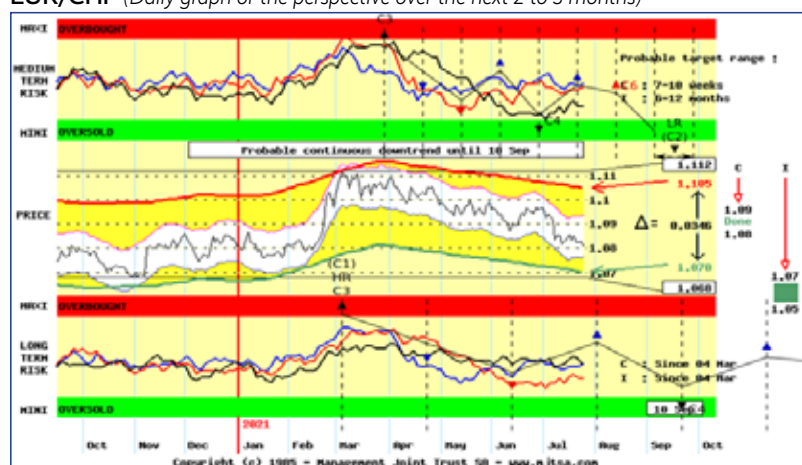
indeed top out in May) could continue for another couple of months. For now, these are not really defensive yet, but may become so over the next few weeks as risk assets could enter a correction during August. Swiss Franc could then strengthen vs most currencies.

USD/CHF (Daily graph or the perspective over the next 2 to 3 months)



The Swiss Franc is one of the more defensive currencies, and while for now most risk assets are still pushing higher, the environment may then turn more defensive during August. Both oscillator series (lower and upper rectangles) are suggesting **a few more weeks of upside attempts for USD/CHF**. Reaching up to our Impulsive targets to the upside (above 0.96, right-hand scale) does seem aggressive though Perhaps could USD/CHF approach its late March highs around 0.94. Thereafter, from the 2nd week/mid August, USD/CHF could then start to resume its downtrend, probably into mid/late September in first instance. Our Weekly graph (not shown here) is also bearish thereafter, from mid/late Summer, probably towards early next year, and towards marginal new lows in the high/mid 0.80s.

EUR/CHF (Daily graph or the perspective over the next 2 to 3 months)



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EUR/CHF is loosely correlated to the USD/CHF graph above. Since early March it has been in a rather linear correction to the downside, which for now still seems underway. As with USD/CHF, yet weaker, EUR/CHF may attempt to hold up over the next few weeks into early/mid August. Thereafter, however, we expect it to drop into mid/late September and the 1.07 – 1.05 range. Our Weekly graph (now shown here), then suggests that it could attempt to resume its uptrend from late-Q3/early-Q4 into next year and the 1.10 – 1.13 range.

Concluding remarks: Both USD/CHF and EUR/CHF could respectively attempt to retest up/hold-up over the next couple of weeks. Yet, the window for this rebound is rather short. Thereafter, from early/mid August, we expect both pairs to drop into mid/late September, probably as a more defensive environment takes hold (both USD and EUR could

drop against CHF, EUR/USD would then be rather neutral). Following that, from late-Summer/early-Fall, both pairs could start to diverge. USD/CHF would then continue lower as the US Dollar starts to weaken across the board again (as tightening expectations drop), while EUR/CHF gradually resumes its uptrend as cyclical themes slowly make a comeback.

CONFÉRENCE—INSTITUT LIBÉRAL—25 AOÛT 2021—18:00—EN LIGNE

COMBATTRE LES INÉGALITÉS OU LA PAUVRETÉ?

Conférence en ligne «Combattre les inégalités ou la pauvreté?»

Mercredi 25 août 2021, à 18h

En ligne

Début à 18h, via Zoom

Si personne ne remet en cause l'égalité en droit qui caractérise la société libérale, le thème des inégalités matérielles est à la mode. Les solutions proposées pour les combattre passent - presque - toujours par un renforcement du pouvoir de l'État. Nul ne semble avoir de doute, ce combat est une, si ce n'est la, priorité du moment. Pourtant, l'inégalité est notre situation initiale, naturelle, car nul ne naît égal. Se pose donc la question de la pertinence du combat contre les inégalités. Faut-il lutter coûte que coûte pour les supprimer ou s'agit-il de nuancer le propos ? Plutôt que de se focaliser sur les inégalités, le but d'une société ne devrait-il pas être de mettre un terme à la pauvreté ? Quelles sont les institutions nécessaires pour parvenir à atteindre cet objectif ?

Après la présentation, vous aurez l'occasion de poser vos questions à l'intervenant.

Intervenant :

Jean-Philippe Delsol, avocat, président de l'Institut de recherches économiques et fiscales (IREF), auteur de *Éloge de l'inégalité*.

[Inscription requise - formulaire d'inscription](#)

INSCRIPTION:

<https://www.libinst.ch/?i=conference-inegalites-Delsol--fr>

GSCGI—GE: 1ER SEPT. 2021, FINMA, DELOITTE & WECAN GROUP SA

INVITATION / INSCRIPTION

Déjeuner-Conférence — 1er Septembre 2021

12h-14h — Métropole, Genève

Nous avons le plaisir de vous inviter, ainsi que vos collègues et ami(e)s à notre conférence de septembre 2021 qui aura lieu en présentiel. Trois thèmes seront présentés:

1) L'autorisation de la FINMA: Priorités et Risques

Thomas Hirschi
Chef de la division Asset Management
FINMA



Kenneth Ukoh
Chef de l'unité gestionnaires de fortune
et trustee — FINMA



2) Baromètre LEFin: Impact des évolutions réglementaires sur les acteurs de la gestion de fortune



Jean François Lagassé
Responsable du secteur des services financiers et
du COE Private Banking
Deloitte

3) Présentation de Wecan Group et Wecan Comply

Vincent Pignon
Fondateur et CEO
Wecan Group SA



Oliver Walker
Business Development Manager
Wecan Group SA



PROGRAMME

Date Mercredi, 1er Septembre 2021
LIEU Hôtel Métropole, Quai Général-Guisan 34, Geneva, Switzerland
12h00 Enregistrement
12h30 Présentations & Session Q&A
13h00 Le repas commence à être servi
14h00 Fin de conférence

Recommandations Sanitaires COVID-19:

- Port du masque obligatoire lors de l'accueil et des déplacements dans les espaces publics.
- Ne pas se serrer la main.
- Le gel hydroalcoolique sera disponible à l'entrée de la salle de conférence.
- Ne pas vous présenter à la conférence en cas de symptômes.

Merci de votre compréhension!

Prière de vous inscrire avant le lundi, 30 Août 2021, 'online' ou par email: secretariat@gscgi.ch

* * *

1er Septembre 2021/Genève—Orateurs: T. Hirschi & K. Ukoh (FINMA); J.F. Lagassé (Deloitte); V. Pignon & O. Walker (Wecan Goup SA).

Octobre 2021/Genève—Orateurs: TBA

Novembre 2021/Genève—Orateurs: TBA

* * *

Réservez ces dates!

Les thèmes de Conférence sont communiqués par invitation et sur le site du Groupement — www.gscgi.ch

Non-Membres bienvenus — Inscrivez-vous!

GSCGI—30 JUIN 2021: INNOVATION DANS LE PAYSAGE FINANCIER SUISSE

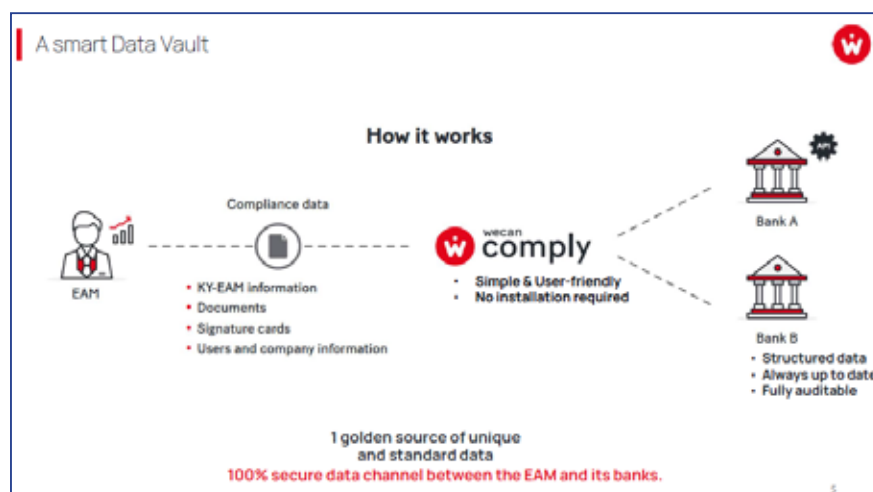
PRÉSENTATION DE LA PLATEFORME BLOCKCHAIN PIONNIÈRE DÉDIÉE À LA COMPLIANCE: **WECAN COMPLY**

Lors de la conférence de juin 2021, généreusement sponsorisé par United Trading Services SA, Membre du GSCGI, le Groupement a eu le plaisir d'accueillir le team de Wecan Comply qui ont présenté cette innovation technologique qui devient une partie importante de la place financière suisse. A ma connaissance, Wecan Comply est le projet, utilisant la technologie 'blockchain' pour la 'compliance', le plus abouti en Suisse et sur le continent européen. Nous espérons que les Gestionnaires de fortune indépendants (GFI) vont être nombreux à l'adopter et ainsi préserver la majorité de leur temps pour leurs clients et la gestion de leurs actifs.

En premier, **Oliver Walker** (Business Development Manager, Wecan Group SA) indique que le groupe, né en 2015, est basé à Genève. Son but est de focaliser en particulier sur la qualité et la gestion des données. Le focus de la conférence est la présentation de la plateforme 'blockchain' Wecan Comply, un système technologiquement avancé qui permet la décentralisation des données 'compliance' dans une collaboration optimale entre GFI et banques dépositaires. Oliver mentionne la contribution initiale de Lombard Odier, de Pictet et d'Edmond de Rothschild dans la définition d'une sorte de 'standard' de 'compliance'. Comme indiqué dans l'infographie en bas de page, il s'agit en effet

de considérer Wecan Comply une sorte de coffre-fort où les données, propriété du GFI, sont stockées et prêtes à être partagées en toute sécurité avec ses banques dépositaires. Ce système 'B-to-B' permet l'automatisation de la disponibilité des documents (y compris les cartons de signatures requis par les institutions bancaires), également lorsque ils sont mis à jours, pour toute banque dépositaire autorisée par le GFI.

Anna Waibel (Customer Success Manager, Wecan Group SA) explique le concept de KY-EAM (Know Your External Asset Manager), indique le type d'information et de documents qui sont ainsi disponibles en un lieu unique et également avec un 'compliance status' relatif aux aspects, entre autres, de catégorie et éventuellement d'échéance. Elle explique, avec des exemples, la facilité de la procédure d'onboarding' tant des GFI que des banques dépositaires sur la plateforme 'blockchain' 'Wecan Comply'. Elle affirme que ce système basé sur la 'blockchain' représente une véritable révolution positive et sécurisée dans la relation entre GFI et banques dépositaires, les données sont sécurisées et les procédures en termes de droits restent personnalisables suivant les besoins. Elle conclut son intervention en indiquant qu'elle reste à disposition pour des 'demos en live' avec les contreparties intéressés.



Le spécialiste en technologie 'blockchain', **Nathan Douet** (Project Coordination Manager, Wecan Group SA), vient spécifier les aspects les plus importants qui la caractérise. L'accent principal est sur l'environnement sécurisé (tout est crypté), la décentralisation du stockage des données, le partage contrôlé des données, ainsi que l'immuabilité des données, aspects assurant 'de-facto' une transparence totale. Il nous indique que Wecan Comply assure le bon fonctionnement de la plateforme, mais

GSCGI—30 JUIN 2021: INNOVATION DANS LE PAYSAGE FINANCIER SUISSE


PRÉSENTATION DE LA PLATEFORME BLOCKCHAIN PIONNIÈRE DÉDIÉE À LA COMPLIANCE: **WECAN COMPLY**

Trust & Security - Why a private blockchain?

Blockchain top benefits

- Secure and encrypted environment
- No central administrator, no one has all control of the data
- Controlled information sharing
- Zero Knowledge Proof: Wecan has no access to your info
- Perfectly auditable: Immutability of changes








Private blockchain (IBM Hyperledger) : A private network: Every member is known

 Wecan Comply: Built and hosted in Switzerland

EPFL Innosuisse project: Staying state of the art in terms of security

- Tests on our security / Ecological footprint

Partnerships

de la plateforme Wecan Comply et la continuité de cette solution pour la place financière suisse. Le but de la BAF est non-lucratif. Sa présidence a été confiée à Me Hodara El Bez de l'Étude Altenburger, avocate indépendante, dont la connaissance de la réglementation du secteur est très pointue, notamment en ce qui concerne les GFI. 'C'est un vrai projet offrant une vision commune des acteurs de la place financière suisse', affirme Laurent, 'et il n'a que de valeur parce qu'il est collaboratif!'

Benoit Barbereau (COO du Groupe Edmond de Rothschild Suisse SA)

ne voit pas, à aucun moment, les informations et les documents qui sont sur la plateforme, qui restent propriété du GFI. Ces aspects sont résumés dans l'infographie ci-dessus. Nathan souligne également que ce système est en phase d'évoluer dans le futur, comme de permettre simplement et en sécurité un lien d'accès aux documents au lieu du stockage sur la plateforme, mais pas uniquement. En effet, les contreparties mises en relation pourraient bien inclure prochainement les 'brokers', les auditeurs, les OS (organes de surveillance) et la FINMA.

Les témoignages, de deux Banques dépositaires participant à la conférence et d'un GFI, viennent renforcer la confiance que désormais cette nouveauté technologique en matière de 'compliance' fait évoluer sensiblement et positivement la place financière suisse et qu'en particulier elle modernise l'organisation de la relation GFI-banque dépositaire.

Laurent Pellet (Global Head of EAM at Lombard Odier) souligne d'emblée la collaboration qui s'est développée entre banques dépositaires, concurrentes par le passé, et les GFI. Cette collaboration a été à la base de la création de la 'BAF-Blockchain Association for Finance', dont il est membre du Conseil d'Administration, afin d'assurer l'évolution

indique trois grandes raisons qui ont motivé leur décision de participer: (1) être au départ d'une initiative collaborative du secteur, (2) c'est la première initiative de 'coopétition', soit de coopérer pour les sujets qui rapprochent et de rester compétiteur sur les autres (produits, services, gestion, etc.) et (3) Edmond de Rothschild a, depuis des nombreuses années, soutenu l'évolution technologique mais à l'exclusion des cryptomonnaies. Il conclut son intervention en affirmant que, au-delà du développement prochain en suisse allemande, un autre enjeu important sera de faire évoluer ce projet également en Europe.

Nicole Curti (Partner & COO de Stanhope Capital Switzerland SA et Vice-Présidente de ASWM) est très enthousiaste de cette innovation qui vient de débiter dans le secteur de la gestion de fortune en Suisse. Nicole, malgré ses réticences initiales en terme de difficulté d'"onboarding" des GFI, témoigne que cela s'est avéré être très facile et que l'équipe bien sympathique de Wecan Comply collabore très efficacement dans ce processus.

Diverses questions ont été traitées avec professionnalisme. Ce compte-rendu est très simplifié. Cependant, les Membres du GSCGI peuvent retrouver la vidéo et les présentations sur www.gscgi.ch en zone 'membre'.

THE END OF OWNERSHIP: PERSONAL PROPERTY IN THE DIGITAL ECONOMY

BY AARON PERZANOWSKI AND JASON SCHULTZ



Perzanowski, Aaron and Jason Schultz, authors of *The End of Ownership*

The End of Ownership provides a crash course in property rights. First, the authors focus on general legal principles related to property ownership before they move on to specific concerns regarding digital distribution and licensing agreements, as well as the threat faced by important public education institutions like libraries. The authors also broaden the scope of their readership by offering a feasible plan for political and legal structures to reinvigorate consumer property rights in a digital era. *The End of Ownership* is at its strongest when analyzing the legal frameworks for the current state of property rights in a digital era; however, the book's legal scope is also a limitation. There is minimal discussion of the role consumers play in the development of this technology, and this lack of agency for consumers is a loud silence. *Read on...*

* * *

Technology has ended ownership but can now reinvent it

Of the many ideas to spring from Benjamin Franklin's astonishing mind, one is strangely resonant today: the creation of the world's first lending library in Philadelphia in 1731. The library's ambition was reflected in its seal: "To pour forth benefits for the common good is divine." It has now become commonplace to argue that the digital economy is eating the physical world, turning hardware products into software services and ending ownership, as we have understood it for centuries. But the nature of these digital transactions is hugely lopsided in favour of the platforms and against users, turning owners into licensees, as Aaron Perzanowski and Jason Schultz explore in their book, *The End of Ownership*. Against big tech dominance, regulators, creators and consumers are reasserting the benefits of owning things. *Read on...*

* * *

An argument for retaining personal property in the digital marketplace

In *The End of Ownership*, Aaron Perzanowski and Jason Schultz explore how notions of ownership have shifted in the digital marketplace, and make an argument for the benefits of personal property. Of course, ebooks, cloud storage, streaming, and other digital goods offer users convenience and flexibility. But, Perzanowski and Schultz warn, consumers should be aware of the tradeoffs involving user constraints, permanence, and privacy. The rights of private property are clear, but few people manage to read their end user agreements. Perzanowski and Schultz argue that introducing aspects of private property and ownership into the digital marketplace would offer both legal and economic benefits. But, most important, it would affirm our sense of self-direction and autonomy. If we own our purchases, we are free to make whatever lawful use of them we please. Technology need not constrain our freedom; it can also empower us. *Read on...*

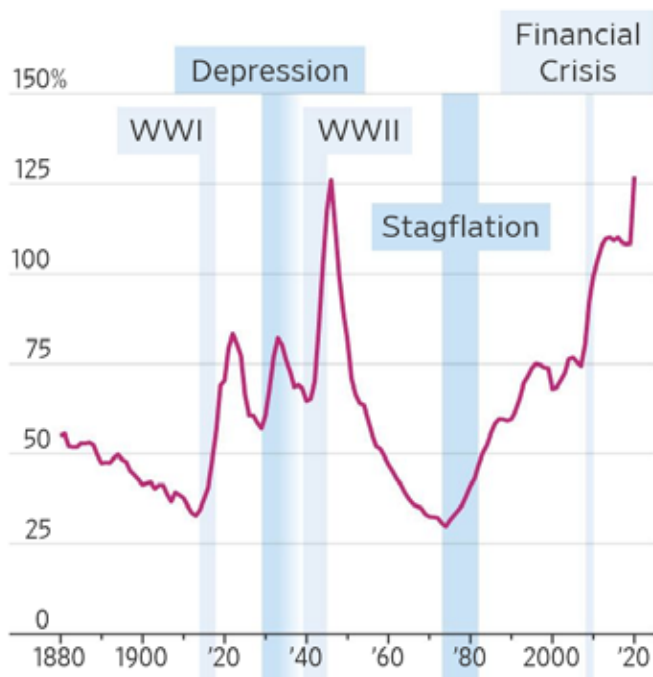
GOVERNMENTS WORLD-WIDE GORGE ON RECORD DEBT, TESTING NEW LIMITS

Cosima F. BARONE—FINARC SA—www.finarc.ch

Rising Debt, Falling Interest

As government debt levels in advanced economies have risen close to their highest ever...

Public debt as a percentage of GDP in 20 advanced economies



...governments' borrowing costs have fallen to an all-time low.

Average government bond yield in 20 advanced economies



Source: International Monetary Fund

The pandemic has pushed global government debt to the highest level since World War II, surpassing the world's annual economic output. Governments, especially in rich countries, are borrowing still more, partly to erase the damage of Covid-19. Advocates say the spending, also encouraged by new economic thinking about debt, could usher in a period of robust global growth, reversing the malaise many wealthy countries have felt this century. But if those theories are off-base, the world could be saddled with debts that can be absorbed only via

inflation, high taxes or even default. The events that shaped the 20th and early 21st centuries. Either way, the combination of huge debt and markets' lack of concern is unprecedented. New economic thinking has encouraged politicians to borrow big by emphasizing how borrowing conditions have evolved since fiscal caution was the orthodoxy in the 1980s and 1990s. Globalization, aging populations and conditions in China have combined to create a world awash in savings available to invest...

WSJ article as of July 12, 2021 (Text & Historical Graphs: 1880 to present)

https://www.wsj.com/articles/governments-world-wide-gorge-on-record-debt-testing-new-limits-11626106592?mod=hp_lead_pos10

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